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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/323,060	10/14/1994	PHILIP C. COMP	OMRF128	3652

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 11/03/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application N .

08/323,060

Applicant(s)

COMP, PHILIP C.

Examiner

Ron Schwadron, Ph.D.

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--Th MAILING DATE of this communication appears on the cover sheet with the c rrespondence address--

The Appeal Brief filed on 22 July 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

The amendment filed 8/13/2003 is nonresponsive because it was submitted in the preJuly 2003 format whilst all amendments filed after July 2003 need to be submitted in the new format for amendments. The Brief does not disclose said amendment or the status of the amendment.
Assuming the same amendment was submitted in the appropriate format, said amendment would be entered.


RONALD B. SCHWADRON
PRIMARY EXAMINER
GROUP 1800 1600

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6. Regarding the Fass declaration filed 2/29/96, said declaration will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented. In addition, the Fass declaration supplied with the amendment filed 2/29/96 was not signed. Therefore, applicants arguments that involve the Fass declaration were not considered.

7. Claims 1-9,11-16,19-21 stand rejected under 35 U.S.C. § 112, first paragraph, for the reasons elaborated in paragraph 17 of the Office Action mailed 11/27/95.

8. Claims 4 and 19 remain rejected under 35 U.S.C. § 112, first paragraph, for the reasons elaborated in paragraph 19 of the Office Action mailed 11/27/95.

9. Claims 1-9,11-16,19,20 stand rejected under 35 U.S.C. § 112, first paragraph, for the reasons elaborated in paragraph 20 of the Office Action mailed 11/27/95.

10. Claims 1-9,11-16,19-21 stand rejected under 35 U.S.C. § 112, first paragraph, for the reasons elaborated in paragraph 21 of the Office Action mailed 11/27/95.

11. The rejection of claim 21 under 35 U.S.C. § 112, first paragraph as elaborated in paragraph 29 of the Office Action mailed 11/27/95 is maintained. Applicants arguments have been considered and deemed not persuasive. Regarding applicants reference to In re Argoudelis, said case refers to an application wherein a biological material had been deposited by applicant in accordance with Patent Office rules. Applicant has not deposited the hybridoma producing the HPC-4 antibody in compliance with 37 CFR 1.801-1.809. Therefore the findings in In re Argoudelis are not relevant to the issue under consideration.

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12. Claims 14-16 remain rejected under 35 U.S.C. § 112, first and second paragraphs for the reasons elaborated in the Office Action mailed 11/27/95 in paragraph 24.

13. Claims 1-9, 11-13, 19-21 remain rejected under 35 U.S.C. § 112, first and second paragraphs for the reasons elaborated in the Office Action mailed 11/27/95 in paragraph 25.

14. Claims 1-3, 7, 11-13, 21 remain rejected under 35 U.S.C. § 103 as being unpatentable over Esmon et al. (US Patent 5,202,253) for the reasons elaborated in paragraph 23 of the previous Office Action. Applicants arguments have been considered and deemed not persuasive. With regards to applicant's comments in the amendment received 2/29/96 on page 8, Esmon et al. (US Patent 5,202,253) teaches that the antiprotein C antibody can be used to promote clotting, "in individuals where it is desirable to do so" (see paragraph four, column 12). It is unclear as to why applicant believes this statement would not apply to microvascular bleeding. There is no statement in Esmon et al. (US Patent 5,202,253) that clotting can only be promoted in tumors. There is no statement in any Esmon et al. patent that indicates that the antiprotein C antibody cannot be used to promote clotting in normal individuals. Furthermore, even if there was such a statement in an earlier patent, this would be superseded by the teaching of Esmon et al. (US Patent 5,202,253) that the antiprotein C antibody can be used to promote clotting, "in individuals where it is desirable to do so" (see paragraph four, column 12). Applicant also needs to specify as to the specific identity of the unnamed "numerous publications" referred to in the amendment received 2/29/96 on page 8. Esmon et al. (US Patent 5,202,253) teach that the instant antibody can be used to induce microvascular clotting in a tumor bed (see paragraph three, column 13). It would have been obvious to a routineer that microvascular bleeding in any anatomical location

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or site could be stopped by treatment with antiprotein c antibody.

15. Claim 4 remains rejected under 35 U.S.C. § 103 as being unpatentable over Esmon et al. (US Patent 5,202,253) as applied to claims 1-3,7,11-13, 20 and 21 above, and further in view of Nishimaki et al. (US Patent 5,130,244) as elaborated in paragraph 26 of the previous Office Action. Applicants arguments have been considered and deemed not persuasive for the reasons elaborated in paragraph 14 of this Office Action.

16. Claims 5,6,8,9,14-16 and 19 remain rejected under 35 U.S.C. § 103 as being unpatentable over Esmon et al. (US Patent 5,202,253) as applied to claims 1-3,7,11-13 above and Esmon et al. (US Patent 5,202,253) in view of Nishimaki et al. (US Patent 5,130,244) as applied to claim 4 above, and further in view of Furie et al. for the reasons elaborated in paragraph 27 of the previous Office Action. Applicants argument have been considered and deemed not persuasive in paragraph 14 of this Office Action.

17. No claim is allowed.

18. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

19. Papers related to this application may be submitted to Group 180 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Papers should be faxed to Group 180 at (703) 305-7401.


20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Ron Schwadron whose telephone number is (703) 308-4680. The examiner

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can normally be reached Tuesday through Friday from 8:30 to 6:00. The examiner can also be reached on alternative Mondays. A message may be left on the examiners voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 180 receptionist whose telephone number is (703) 308-0196.


RONALD B. SCHWADRON
PATENT EXAMINER
GROUP 1800

Ron Schwadron, Ph.D.

Patent Examiner

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March 26, 1996